



T H E
JUSTICE AND POLICY
OF THE LATE
ACT OF PARLIAMENT,
FOR
*Making more Effectual Provision for the
Government of the Province of*
QUEBEC,
ASSERTED AND PROVED;
AND THE
CONDUCT OF ADMINISTRATION
RESPECTING THAT PROVINCE,
STATED AND VINDICATED.

L O N D O N :

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ERRATA.

Page 8, line 13, for *Signeuries*, read *Seigneuries*.

14, for *Signeur*, read *Seigneur*.

20, for *Signeury*, read *Seigneurie*.

Page 29, line 6, for *putting*, read *pulling*.

58, — 24, for *direction*, read *discretion*.

64, — 17, for *fo*, read *fuch*.

T H E
JUSTICE AND POLICY

OF THE LATE

ACT OF PARLIAMENT, &c.

MISREPRESENTATION of the proceedings of the Supreme Legislature is not only injurious to the individuals who compose the legislative body, but a crime against the constitution. *Power* may enforce submission to its will among *slaves*; for subjects are no longer free, when their obedience to their rulers is induced by fear alone: but it is to *Authority* that *freemen* pay obedience; for where we allow authority to reside, we always suppose power accompanied with wisdom and benevolence; and our obedience is then more the result of our respect than of our dread.

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Whoever, therefore, endeavours to divest us of respect for the supreme authority in the state, labours to eradicate from our minds every idea of a Free Government, and either to reduce us to the condition of slaves whilst we submit to it, or to excite us to destroy the constitution and ourselves by overturning it. It is indeed the duty, as well as the privilege, of *Englishmen* to discuss every public measure, and to trace the consequences of every important act of state; but, in so doing, we ought to be guided by truth and reason, and carefully avoid misrepresentation of facts, and unfounded imputation of motives. We ought to expect no more of our rulers, than to do what upon the whole appears to be the best; and, if that can be made out to the satisfaction of our unbiassed judgement, we have surely no right to suppose their conduct to be governed by sinister or wicked motives. Had these considerations been attended to,

to; the clamour, which has been endeavoured to be raised against the late Act for the better regulating the Province of *Quebec*, would never have been excited; but, since such endeavours have been used; it becomes the duty of the friends of government, who wish to give content and satisfaction to the minds of the people, to lay before the public a fair and simple representation of the purposes of the law, and to suggest the considerations upon which that measure appears to be founded; in order to enable every candid *Englishman* to form a right judgment of its propriety, and of *their* title to his esteem and confidence, upon whose advice it was taken up, or by whose assistance it has been carried into effect.

When the vast territory of *Canada* became part of the dominions of the crown of *Great Britain*, it was found to contain near one hundred thousand inhabitants; a hardy industrious race of men, equally skilled in the management

of the plough, the fishing-net, and the musket. They were descended from *Frenchmen*, attached to *France*, and professed the religion of that country. They had obtained a considerable influence over the Western Savages, who had been accustomed to wage an almost continual war, under their direction, with the *English* subjects, against whom they cherished the strongest antipathy and malevolence.

The lands of *Canada* had been granted by the *French* king in Signeuries upon feudal tenure; and the seigneur had parcelled them out among the inhabitants upon the like conditions; and the relation and compact between lord and tenant was still more firmly cemented, by the former being appointed to command the militia of his seignury, and being also vested with the civil jurisdiction in all matters of a trivial value. He was also sheriff of his district; and all pro-

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cess issuing out of the superior courts against his tenants were directed to him, and by him were most punctually and faithfully executed. Hence was it, that the peasants of *Canada* became so formidable a militia, and that, with so little aid from France, the troops of the colony so long baffled all the efforts of the numerous armies raised by our provinces, and were at last subdued only by the superior bravery and discipline of the king's regular forces.

The religion of the *Canadians* was found to be that of the *Gallican* Church, scarce a single *Hugonot*, or dissenter from the *Romish* faith, was to be met with in this vast territory; and very noble provision had been made for the education of the *Canadian* youth, by the ample endowment of religious seminaries, from whence the parishes were supplied with priests, and missionaries sent for the instruction and conversion of the savages.

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By the capitulation granted to the *Canadians* by Sir *Jeffery Amherst*, the free exercise of their religion, and the full enjoyment of their property, were secured to them ; and, in the subsequent treaty of *Paris*, the like terms were more solemnly stipulated and ratified by the king.

Such were the circumstances under which *Canada* became a dependency of the crown of *Great Britain* ; and the establishment of a proper mode of civil government therein was considered by the then, and every subsequent, administration, as a matter of so great importance and of so much difficulty, that it became the object of almost continual deliberation. Every means of information was put in use, and every assistance called for, that could be supposed to throw light upon the subject, or furnish a clue to lead to the wished for point. But, while these discussions were going on, it was necessary that some civil judi-
cature

ature should be erected, and a legal government of some sort should take place; and therefore his Majesty was advised to introduce the laws of *England* in general into *Canada* for the present: And a proclamation was accordingly issued for that and other purposes, on the 7th of *October*, 1763.

This proclamation was attended by a code of instructions to General *Murray*, then appointed Civil Governor of *Canada*, by the new name of *Quebec*; and soon after, the Lords of Trade presented to his Majesty in Council a paper of propositions for regulations to be adopted in that province. These propositions were referred to the then Attorney and Solicitor General, who took some months to deliberate upon them, before they delivered in their report. But, in the mean time, the publication of the proclamation, and of an ordinance, which the Governor and Council promulged for

for establishing courts of justice in consequence thereof, filled the poor *Canadians* with grief and amazement. They saw themselves at once bereft of their own laws and customs, and an unknown system of jurisprudence established in their room. They were utter strangers to the language in which these new laws were written, and they had no idea of the usages by which they were to govern themselves in cases where the written laws gave no direction: But, as they were accustomed to submit to authority, they restrained their murmurs, and waited the event with patience, though not without great anxiety.

As the laws of *England*, which were now introduced in the gross, were supposed to exclude *Roman* catholics from all offices; the captains of the militia and signeurs were all superseded of course, and such of the king's antient subjects, as had

had taken up their abode in *Canada*, were appointed magistrates and militia officers in their room. Few of these persons were of a respectable class in the provinces from whence they had emigrated; and their deportment in their new dignity did not much serve to alleviate the grief and chagrin of the discarded *French* Noblesse, who felt themselves not less disgraced by their own dismissal, than by the elevation of such men into their seats. There were few or none of these antient subjects, who had landed property in *Canada*. They had been either sutlers to the troops, or *Indian* traders; and although those, who were appointed magistrates, now added ESQUIRE to their names, they did not think fit to lay aside their former occupations. Indeed, such as were removed to a considerable distance from *Quebec*, found a way of rendering their magisterial powers useful in their trade; for, as the law was in their own hands,

they took the liberty of moulding it to any form that suited their purpose. The *Canadians* had, in the course of their dealings, contracted debts with these and other traders, expecting to pay in peltry or the produce of their farms, when the season came round; but, to their utter astonishment, they found themselves cited before the magistrates for the most trifling sums, condemned to make instant payment at times when they had no means in their power, and, on failure whereof, their persons were arrested, dragged from their farms and families, and committed to a common prison, there to remain until their creditors received satisfaction for their demands. If the debt exceeded forty shillings, their case was still worse; for then they were arrested by the writ of the court at *Quebec*, and, from the remotest parts of the province, transmitted under custody of a deputy marshal like felons to the capital. As, by the *French* laws,

laws, no process went against the person of the debtor until his chattels were found insufficient, and of these he was allowed time to make the most, at the proper season, by the merciful decree of his seigneur; it is difficult to conceive the misery and distress, in which the poor *Canadians* found themselves involved, by the operation of these new and unknown laws; and when, to the afflicting circumstances already stated, we add the enormous expence attending a process out of the superior courts executed at so great a distance; we shall cease to wonder, that the *Canadians* are not in raptures with the *English* laws of arrests; and be less amazed at the obstinate prejudice they entertain for their own laws and customs,

The truth is, our laws of arrests are innovations upon our constitution; and the good of trade has superseded the regard our antient laws shewed for the

personal liberty of the subject: And, at this day, there is no country under heaven, where the recovery of debt is attended with more circumstances of cruelty, misery, and slavery than in our own, however we may plume ourselves upon the excellency of our civil code.

The sufferings of the *Canadians* did not however get the better of their patience, nor banish their hopes in the king's goodness. Repeated petitions to his majesty, conceived in the humblest though the most pathetic terms, praying the restoration of their former laws and customs; were the only efforts they made to obtain relief from their misery: And though little could be done for their comfort during these ten years, in which they have been suffering and petitioning, they still persevere in their dutiful submission to the king's government, and support themselves, under the pressure of their calamities, by trust and confidence in the royal justice and clemency.

mency.—But, although so little was done for their relief, the king's servants were not inattentive to the state of *Quebec*, or deaf to the cries of the *Canadians*; for so soon as the report of the attorney and solicitor general was received, the board of trade was directed to prepare an instruction to the governor, requiring him to pass an ordinance for the better regulation of law proceedings, which that board, with great care and pains, prepared accordingly. But the Lords of the Council, not thinking themselves sufficiently informed of the laws and customs of *Canada*, which, by this instruction, were to be adopted; the instruction was laid aside for the present; and the earl of *Shelburne*, then secretary of state in the southern department, sent Mr. *Morgan*, one of his under secretaries, to *Quebec*, to collect the laws and customs which had prevailed or been of force in *Canada* under the *French* government; a trust which that gentleman executed with great fidelity and

and ability. Instructions were at the same time sent to the governor, chief justice, and attorney general of *Quebec*, to give all possible assistance to Mr. *Morgan*; and, so soon as the collection was made, they were directed carefully to examine and consider the whole, and transmit their opinions, how far those laws and customs were fit to be adopted in any general plan for the regulation of the province, and fully to report their sentiments of the nature of the constitution, which was most likely to give content and satisfaction to the inhabitants, and attach them to the *English* government,

Upon Mr. *Morgan*'s return to *England*, his report, and those of the governor, chief justice, and attorney general, all of which materially differed from each other, together with the laws and customs of *Canada* collected by Mr. *Morgan*; were laid before the Privy Council, and from thence referred to the Board
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of Trade, who framed a new report upon the information of these papers and their own inquiries, which having been considered by the Privy Council, their Lordships referred all the papers to the advocate, attorney, and solicitor general, directing those great law officers to make separate reports upon the whole of what was now laid before them.

The reports of these learned gentlemen contained a great variety of propositions ; but, like the opinions of most learned gentlemen, they were very different from each other. And thus it fell out, that, after all the pains which had been taken to procure the best and ablest advice, the ministers were in a great measure left to act upon their own judgement.

In this situation it was natural to have recourse to precedents ; and those, which had any similarity to the present case, were carefully examined.

IRELAND and MINORCA furnished the most striking instances of the treatment, given by our ancestors to a conquered people professing the *Romish* religion; and as the measures, pursued in those instances, were exceedingly different, the effects of each were investigated with the most critical exactness.

The *Irish* papists, when the revolution took place, had attached themselves to the banished king through principle; as well because he was *their* king, as because he lost the crown of *England* by his zeal for the religion they professed. The capitulation of *Limerick* was the only assurance they had received from the conqueror of the enjoyment of their property or the exercise of their religion; and those who had the misfortune not to be included in that capitulation, which was a vast majority of that wretched people, were absolutely at the mercy of the victorious protestants. The number
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of inhabitants in *Ireland* did not then amount to a million; and the *Roman* catholics were four fifths of the whole. Dread of their numbers, and resentment for the cruelties they had inflicted upon the protestants while their rule lasted, dictated the plan, which was then adopted, and which has to this day been unremittingly pursued, for preventing the growth of popery in that island, and depriving its professors of all means of disturbing the government or abetting the enemies of the state. All papists, not included in the capitulation of *Limerick*, are by law rendered incapable of purchasing, inheriting, or even obtaining the security of a mortgage upon a landed estate: And to encourage the discovery and detection of offenders against these laws, as well as to promote reformation, the informers are rewarded with a grant of the lands, which, upon conviction of the owner, becomes forfeited to the crown. Besides the legal disabilities, which papists are subjected to

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by the laws of *England*, the *Irish Roman* catholics are deprived of all weapons offensive or defensive; and it is made penal for them to cut their victuals with knives exceeding a certain length in the blade. They are debarred of giving their children any education unless under protestant masters; and if, from any improvements they make, the profits of their farms should at any time be found to exceed one third of the rent, their leases become voidable. And should any of them be found upon an horse, worth more than 5*l.* he is liable to be compelled to sell him for that price to the first militia man who takes a liking to him.

It is difficult to imagine, what more can be done by severe treatment to extinguish a sect, or to deprive its followers of all spirit or ability to disturb the government. Yet the effect of these measures, if we may believe the *Irish* protestants, has not by any means answered these
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their avowed purposes, nor served in any degree to recommend them for our imitation in *Quebec*. For, after the experience of almost a century, we are told, such is still the malignant hatred borne by the papists to the protestants, and such their determined purpose to yield that kingdom to a foreign power whenever the opportunity presents itself, that, although the protestants now bear the proportion of two to five to the *Roman* catholics, are in possession of all the offices of the state, the land-owners of nearly the whole island, and protected and supported by the whole power of *England*, they think themselves in the utmost danger of being massacred by the papists, if, even in time of peace, there should happen to be a less number than twelve thousand effective troops remaining in the island *.

Now

* The arguments used by the opposers of the Popish Mortgage Bill, all tended to shew, that should the *Irish* Papists ever acquire property in

Now the *Irish* papists are *Irishmen*, mixed in blood, and descended from many of those, who are at present protestant families. There is not an individual inhabitant, that has ever borne arms against the *English* government; nor has there been any rebellion, insurrection, or the face of an enemy (*Thurot's* excepted), seen for fourscore years in that kingdom : And yet if, notwithstanding

that country, they would certainly employ it to the destruction of the Protestants. And the same men, who declaim upon the hardships imposed on *Ireland* by *English* Laws, which exclude the inhabitants from lucrative branches of trade, with the same breath assert, that the constitution would be in the utmost danger, should three-fifths of the inhabitants find means of sparing a shilling from their immediate necessities. In another century, perhaps, some statesmen may arise in that country, who can conceive men to be more disposed to support a government that protects them in all the rights of humanity, than one whose policy it is to extirpate them; that, as men always entertain a prædilection in favour of the country where they are educated, to compel the Roman Catholics to send

standing these happy circumstances, severity has so little served to attach these infatuated people to the *English* government and their fellow-subjects ; what success may we hope for from the like methods in *Canada*, where the *Roman* catholic inhabitants are five hundred to one protestant, and those

send their children to France for education, is not the best means of weaning their affections from that kingdom ; that men, who invest their wealth in fixed property, are not the most apt to excite insurrections ; and that to oblige men to transmit their property into foreign countries, is not the surest method of attaching them to the state they reside in. Bishops, it is also to be hoped, may be found in future times, who will be able to discover, that their being brought up in ignorance, is not the likeliest way to teach men to discern and overcome early prejudices ; that it is paying an ill compliment to the authors of the Reformation, to insist upon mens professing themselves Protestants antecedent to their receiving any instruction ; and that Christianity no more authorizes Protestants to make converts by penal statutes and disabilities, than it does Roman Catholics to propagate their creed by fire and faggot.

Roman

Roman catholics ten years ago were subjects of *France*, and every man bearing arms against *England*; in possession too of a country situated three thousand miles from *Great-Britain*, and all access to it denied by nature to our fleets and armies for six months in every year.

The effects of lenity in the other instance recurred to, which was that of *Minorca*, were more promising; and the case was more in point than that of *Ireland*. The inhabitants of *Minorca* were originally *Spaniards*, and hostile to *England*. They had been permitted the full enjoyment of their religion and properties, from the cession of the island to *Great-Britain* by the treaty of *Utrecht* to the present hour: and, although we have had two wars with *Spain* in that time, and the island has once been conquered by *France*; the inhabitants have shewn no impatience under the *English* government, nor have they been found to invite or abet an invasion by their former

former sovereign, or any other *Roman* catholic prince.

It is true, little profit has hitherto accrued to *England* from the possession of that island; for it has never been attempted to be made a colony, nor has any civil government been established there; no administration, before the present, having had sufficient leisure, or been so zealous for the public welfare, as to engage in an undertaking, which, it was easy to foresee, must (like the *Quebec* bill) occasion much clamor, and furnish a topic for opposition to declaim upon. Hence it is, that one of the finest islands in Europe, and the most advantageously situated, has been suffered to be without improvement for half a century; although the nation pays above 100,000 l. in every year of peace to secure to our commerce the protection of its harbour in time of war.

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The inducement to adopt a plan of lenity and indulgence, arising from the comparison of the advantages with which that mode of treatment has been attended in *Minorca*, with what has been the result of the severe system which has taken place in *Ireland*, was greatly heightened by a consideration of the avowed purpose of the old colonies to oppose the execution of the laws of *England*, and to deny the authority of the supreme legislature: for, however different the views and purposes of the leaders of this opposition might be from the wishes of the *Canadians*; yet, it was not to be doubted, they would take advantage of any discontent which a harsh proceeding might excite among them, and, by fair promises of redress, endeavour to lead them to take part in their undertaking.

An alliance of this sort, however unnatural, we know once took place in the reign of JAMES the Second, between certain of the Dissenters and the Roman Catholics

Catholics in *England*, for the subversion of the established Church ; and it is no uncommon thing in any country, for two sects or parties, who mutually dislike each other, to make a common cause of putting down a third, that attracts the enmity of both.

I have hitherto argued the point upon the opposition's own ground ; and I trust I have made it appear, to the conviction of every unprejudiced mind, that the plan, which benevolence and humanity recommend, is consonant to the soundest policy : But there is still one important consideration to be added in favour of such a plan, which would outweigh even its impolicy, if *that* could be proved ; which is its *justice*. By the 4th article of the treaty of *Paris*, ratified by the king and approved by parliament, it is stipulated ; “ That his “ Britannic Majesty, on his side, agrees “ to grant the liberty of the catholic “ religion to the inhabitants of *Canada*.

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“ He will, consequently, give the most
 “ precise and most effectual orders, that
 “ his new *Roman* catholic subjects may
 “ profess the worship of their religion,
 “ according to the rites of the *Romish*
 “ church, *as far as the laws of Great-*
 “ *Britain permit.*”—Let us then exa-
 mine how far the laws of *England* do
 or do not allow the *Canadians* the free
 and public exercise of their religion, and
 how far, under the stipulations recited,
 they are entitled to the common rights
 of *British* subjects in that country. For-
 tunately ‘for my purpose, these cases
 have been already stated, and the
 opinions of as able lawyers, as this
 country has produced, have been given
 upon them. In 1765, the Lords of
 Trade sent the following query to Sir
Fletcher Norton and Sir *William De*
Grey, then attorney and solicitor gene-
 ral; “ Whether his majesty’s subjects,
 “ being *Roman* catholics and residing
 “ in the countries ceded to his majesty
 “ in *America* by the treaty of *Paris*,
 “ are

“ are not subject, in those colonies, to
 “ the incapacities, disabilities and penal-
 “ ties, to which *Roman* catholics in this
 “ kingdom are subject by the law there-
 “ of?” To which query those great men
 answered on the 10th of *June*, “ That
 “ they were not.” And the advocate,
 attorney, and solicitor general, in their
 joint report to the Privy Council upon
 the propositions of the Board of Trade,
 presented on the 18th of *January* 1768,
 state it to be their opinion, “ That the
 “ several acts of parliament, which im-
 “ pose disabilities and penalties upon the
 “ *public* exercise of the *Roman* catholic
 “ religion, do not extend to *Canada* ;
 “ and that his majesty is not by his
 “ prerogative enabled to abolish the
 “ dean and chapter of *Quebec*, nor to
 “ exempt the protestant inhabitants from
 “ paying tithes to the persons, legally
 “ entitled to demand them from the *Ro-*
 “ man catholics.” Supported by such
 high authorities, I am surely warranted

in asserting, That the *Canadians* are, by the stipulations in the treaty of *Paris*, entitled not only to the free and public exercise of their religion, but are also capable of and entitled to all the rights of *British* subjects in that province. For, if the laws of *England* do not disable or restrain them, or make a distinction to their prejudice; they have certainly a right to the privileges and advantages of those laws, in common with other the king's subjects resorting to *Canada*; and any subsequent law, or exertion of the king's prerogative, which should make a distinction, which the laws in being, when the treaty was ratified, do not make, would be cruel, arbitrary and unjust, and a violation of the solemn stipulations of that treaty. Under what colour or pretence, then (let me ask the oppugners of the late act of parliament), is it that the *Canadians* ought to have been deprived of all share in the civil offices of the province; that
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their clergy should be stripped of their maintenance, and the whole people made subject to laws enacted by an assembly, from which they were to be excluded, and in the election of whose members they were to be deprived of all share? Upon what ground or pretence is it asserted, That a clause, which expressly takes away from the parish priests their legal title to tithes of the lands held by protestants, and which our great crown-lawyers declared the king could not deprive them of by his prerogative, can be said to establish popery, and grant only a precarious toleration to the church of *England*?——But I will not anticipate what will come more properly into discussion, when the act itself is considered.

The death of the bishop of *Quebec*, which happened in the year 1760, brought on the consideration of the appointment of a successor; which was certainly a matter of much importance
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and delicacy : For, on the one hand, if no person vested with episcopal authority was permitted to reside in *Canada*, all candidates for orders must pass into *France*, or some other *Roman* catholic country, for ordination ; which would occasion an intercourse, which there were the wisest reasons to prevent : And, on the other, if a bishop should be admitted, who himself received his appointment from a foreign power ; *That* might create ideas of dependence and connection, which ought as much as possible to be kept out of the minds of the *Canadians*. The measure adopted avoided all these inconveniences. A priest, of great consideration in *Canada*, had come over to *England*, with the strongest testimonials from the governor of his good character, benevolent temper, and attachment to the *English* government. This person was told, if he obtained consecration he should be licensed to superintend the *Roman* catholic churches in *Quebec* : In which case, he must im-

mediately consecrate a coadjutor to be nominated by the king's governor to succeed him, and that such coadjutor should likewise, when he became bishop, consecrate a coadjutor to himself; and thus a perpetual succession be kept up, without having recourse to any authority out of the province : all which has been complied with, and the measure promises to be attended with the best and happiest effects.

The conduct of the few *British* traders, who had settled in *Quebec*, towards the *Canadians*, but ill accorded with the philanthropy of the plan for the government of the province, which was under consideration in *England*. For the governor and council having, in consequence of instructions from his majesty, directed in their ordinance for the establishment of courts of justice, that the *Canadians* should be summoned upon juries; the grand jury for the county of *Quebec*, which was composed
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of the new settlers, at the *October* sessions in 1764, after declaring, " That
 " *they* must be considered at present as
 " *the* ONLY REPRESENTATIVE of *the*
 " *colony*, and that they, as *British* sub-
 " jects, had a right to be consulted before
 " any ordinance, that may *affect* the
 " body *they represent*, be passed into a
 " law ;" * proceeded to present, as a
 grievance among others, and a violation
 of their most sacred laws and liberties,
 the impannelling *Roman* catholics upon
 grand and petty juries. And the more
 fully to manifest their envy at the in-
 dulent treatment of the *Canadians*, and
 their settled purpose to deprive them of
 the most valuable privileges of *British*
 subjects, should they ever possess the

* The learned promulgers in 1766 of the heaven-born doctrine of taxation and representation being necessarily and eternally connected, appear to have been mere plagiarists of the grand jury of *Quebec* ; for they had discovered it two years before, and extended it, with as good reason, to all acts of legislation.

power of doing it; they took upon them to interpret the stipulations in the treaty of *Paris* respecting the *Canadians*, as limited and restrained to such toleration of their religion, as is permitted to *Roman catholics* in *England* by the statute of the 3d of king *James* the first; and that therefore the *Roman catholics* in *Quebec* were liable to all the penalties and disabilities of that statute. The reprimand, given by the bench to this grand jury for their presumption, with-held future grand juries from assuming the style and authority of representatives of the colony: And these persons, finding there were no means, by which they could oppress the new subjects or seize upon the powers of government, but by obtaining a protestant assembly to be called, of which *they* only could be members, have laboured that point by repeated petitions to his majesty and representations to the governor; all of which petitions and representations have regularly been encountered by petitions of the new sub-

jects for the restoration of their antient laws and customs.

I HAVE thought it necessary to give so large an account of what passed previous to the introduction of the late act into parliament, in order to shew the real state of the province, and to obviate the charge of delay, which has been so repeatedly made against administration in the course of their proceedings. It is now time to consider the act itself, and to examine, how far it is founded upon the principles of humanity, and corresponds with that plan of justice and sound policy, which I have asserted to have been adopted by his majesty's servants.

The objects of this act are, the extension of the boundaries of the province; the revocation of the civil government, which took place in consequence of the proclamation in 1763, and all its acts; the toleration of the *Roman* catholic religion,

gion, agreeable to the treaty of *Paris*; the securing to all the *Canadian* subjects, except the religious orders and communities, the enjoyment of their properties and civil rights; the re-establishment of their antient laws and customs, subject to such alterations as the legislature of the province may think fit to make; the continuation of the administration of the criminal laws of *England*, subject to the like alteration; and the establishment of a temporary legislature within the province.

When the lines, drawn by the proclamation of 1763 for the boundaries of *Quebec* and of the *Floridas*, and for the limitation of settlements under grants from the old provinces, were resolved upon; a general plan for the regulation of the trade with the savages was under consideration of the Board of Trade, and in great forwardness. To give this plan uniformity and effect, it was thought necessary to exclude all the provinces

from jurisdiction in the interior or *Indian* country ; but all persons resorting thither for trade (and no settlements were to be permitted) were to be subject to a police, deriving authority immediately from the Crown, and supported by a revenue arising from a tax upon the trade to be imposed by act of parliament.

The events of the following year were fatal to this plan ; for it was not then judged expedient to lay the tax, and consequently the expence could not be defrayed without an additional charge upon the *American* contingencies, which were thought to be sufficiently burdened already. This was the reason that so large a part of the ceded territories in *America* was left without government, and that the new province of *Quebec* contained so small a portion of antient *Canada*.

It had been the policy of the *French* government to possess themselves of the
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water-communications throughout the whole of that vast country, and, for that end, to establish posts at the most important passes; but, being well aware of the great difficulty of supplying those posts with provisions from the inhabited country, they settled a little colony round each post, to cultivate the ground and raise provisions for the garrison. This gave rise to the settlements at *Detroit*, *Missilimakinac*, and upon the heads of the *Mississippi*, called the *Illinois* country: And, as these settlers had been put entirely under the direction of the commanding officers of the forts, when the *French* garrisons were withdrawn, and military orders ceased to be law, they were altogether without law or government; especially as, by the new arrangement, they were excluded every *English* province. It must be confessed, no great mischief has happened from these people being left in this lawless state: They had been accustomed to obey *French* military orders; and the

English officers, who commanded the posts which were continued in their neighbourhood, of their own authority exercised the same command over them; and as it was not the purpose of administration to encourage settlements in those remote situations, the arbitrary rule of the military was tolerated, as most likely to prevent an increase of inhabitants.

In such parts of this *pays deserte* as lay more contiguous to the prescribed limits of the old colonies, and where there were no military posts kept up, the effects were very different. Emigrants in great numbers flocked thither from the other colonies, took possession of vast tracts of country without any authority, and seated themselves in such situations as pleased them best. As no civil jurisdiction reached these intruders upon the King's waste, and as their numbers increased every day, insomuch that the native savages, in dread of their power, quitted these lands, and removed
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to others at a greater distance ; the case was judged to be without other remedy than that of following the emigrants with government, and erecting a new province between the *Allegany* mountains and the river *Ohio* for that purpose.

That the mischief might not, however, farther extend itself, and the like reasons for erecting new colonies at a still greater distance from the sea coast may not again recur, the whole of the derelict country is, by the first clause of the act, put under the jurisdiction of the government of *Quebec*, with the avowed purpose of excluding all further settlement therein, and for the establishment of uniform regulations for the *Indian* trade.

The province of *Quebec* was preferred for these ends before all the others, because the access by water is much easier from *Quebec* to such parts of this country as are the most likely to be intruded upon, than from any one other colony : for emigrants always chuse to seat themselves

upon places where they can have the advantage of a water-communication with the markets they intend to traffic at. And if this country had been parcelled out among the several colonies that bounded upon it, experience has fully testified the impracticability of their all agreeing upon one general plan, which would have the effect to prevent settlement, or to enforce any regulations which may be thought necessary for giving security and satisfaction to the savages in their dealings with our traders; the only means to prevent the quarrels and murders which are every day happening, and which are the certain consequences of a fraudulent commerce. Both these objects, it is expected, will be obtained by putting this country under the jurisdiction of *Quebec*; for, as there is now a legislature in that province, competent to enforce such regulations; administration is pledged to recommend, that acts for those purposes
be

Be the first objects upon which the legislative powers shall be exercised.

The *Labradore* coast is, by this clause, taken from the jurisdiction of the governor of *Newfoundland*, and annexed to *Quebec*, for different reasons. The soil of that wretched country is too sterile, and the climate too intemperate, to invite settlers. The seal and sea-cow fisheries are the chief objects to induce the human species to visit that coast. These fisheries, it is asserted, require great silence and watchfulness in the fishermen, which cannot be expected in a promiscuous fishery. And it is asserted, that the fishing-posts must be occupied, and the preparations for the fishery made, before the cod-fishery begins, or the King's ships, destined for its protection, arrive in those seas. Hence it is, say the persons interested in the oil-fishery, that grants of fishing posts must be made to the occupants, exclusive of all others, and that the coast and fishery should be

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put under a civil jurisdiction, which might afford constant protection, and to which recourse may be had for satisfaction of any damage the residents might sustain by intruders.

Now, the governor of *Newfoundland* has no legal authority to make grants of lands or of fishing posts in *Labrador*; neither can he appoint civil magistrates to reside there in the absence of the fleet, nor is there any court of justice at *Newfoundland*, to which the resident fishermen could have recourse, or by which any satisfaction could be decreed for injuries sustained from itinerants.

All these defects will be supplied by the governor of *Quebec*, who has authority to make grants of lands and fishing posts, and can appoint magistrates to reside during the whole of the fishing season; and the king's courts of *Quebec* will be equally open to the fishermen
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for redress of injuries, as to all other his majesty's subjects. But should the information, upon which this measure is founded, prove erroneous, or any injury to the fishery accrue from the proposed regulations; the legislature of *Quebec* can interpose, or if its authority be insufficient, parliament will not fail to apply an adequate remedy.—I must not however quit this point without remarking, that, as the nature of this oil-fishery renders it impossible to be carried on in the manner of the *Newfoundland* fishery from *Great-Britain*; it must fall into the hands of residents: and since that is the case, it does not appear a very important consideration, whether the profits of it go to *Boston* or *Quebec*, in the first instance. But should the people of *England* chuse to take a share in it, and make settlements there for that purpose, the order of his majesty in council to the governor of *Quebec* will always secure to them a

grant of any unoccupied fishing post, which they may apply for.

The clause, which revokes all commissions and annuls all ordinances, made by the governor and council relative to the civil government and administration of justice, stands next in order in the act; but, as this clause is only meant to clear the ground for the intended superstructure, I shall pass it over and hasten to the succeeding clauses, which respect religion and the laws.

Strange things have been asserted in parliament, and out of parliament, of the wicked tendency of these clauses. Nothing less than an absolute dominancy and legal establishment is said to have been given, in the one case, to the *Roman* catholic religion, to the depression and exclusion of *that* of the church of *England* and of all protestants; and, in the other, *Englishmen* are said to be put under an arbitrary *French* judicature,
and

and deprived of the right of trial by juries in all civil causes. Hard charges these upon the very great majority in both houses, which passed the bill, and upon our most benign and religious king who gave his royal assent to it ! But, I trust, things will not appear so bad upon examination.

The enacting clause runs thus: " And,
 " for the more perfect security and ease
 " of the minds of the inhabitants of the
 " said province, it is hereby declared,
 " That his majesty's subjects professing
 " the religion of the church of *Rome*,
 " OF and IN the said province of QUE-
 " BEC, *may have, hold and enjoy the free*
 " *exercise* of the religion of the church
 " of *Rome*, SUBJECT TO THE KING'S
 " SUPREMACY, declared and established,
 " by an act made in the first year of
 " the reign of queen ELIZABETH,
 " over all the dominions and countries
 " which then did or *thenafter should*
 " *belong to the imperial crown of this*
 " *realm ;*

“ *realm*; and that the clergy of the
 “ said church may hold, receive and
 “ enjoy their *accustomed dues and rights*
 “ with respect to such persons *only* as
 “ shall profess the said religion.”

The man who can discover the dominance and establishment of the *Roman catholic* religion in the words of this clause, must be able to out-jesuit the keenest of the sons of *Loyola*. For, to a common understanding, the words of this clause seem to express a meaning very different from an establishment of popery. They clearly and plainly declare the king to be *supreme head* of the church in *Quebec*, by authority of the act of the first of *Elizabeth*. May I then ask, of what church it is, that the act of the first of *Elizabeth* declares and establishes the king to be *supreme head*? For, whatever church that is, *That* must be the established church in *Quebec* by this act. Had the act of queen *Elizabeth* been *repealed* instead of
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being declared of force by this act; there might have been some ground for supposing, that the establishment of the church of *England* had been neglected: But a subsequent proviso, by abrogating the oath required to be taken by that act, and by introducing a new one to be taken by *Roman catholics* in *Quebec*, under pain of incurring the same penalties, forfeitures, disabilities and incapacities, *as they would have incurred and been liable to for refusing to take the oath required by the said statute of queen Elizabeth*, in my poor opinion, gives force and efficacy to the whole, according to that antient law maxim, *exceptio probat regulam*. Perhaps, indeed, this point might have been made more clear, and the act might have been expressed in terms more precise; but then there would have been danger of undoing, what the clause sets out with the professed purpose of doing, "The giving *ease and security* to the minds of the *Canadians*," who would naturally

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have

have imagined, that, by *declaring* the establishment of the church of *England* in *Quebec*, its ecclesiastical judicature was also established, to which they were to be amenable, and by which they should be persecuted. The declaration of his majesty's supremacy, as established by the act of the first of ELIZABETH, was therefore judged a fitter mode of proceeding; as it leaves it with his majesty to give such jurisdiction and authority to *his own* church in *Quebec*, as he shall think necessary. And lest it should be imagined, that his majesty is restrained by any thing contained in this act from conferring such jurisdiction and authorities, the last clause of the act puts it beyond all possibility of doubt, that he is not. The words are; "And be it farther enacted, That *nothing herein contained* shall extend, or be construed to extend, to prevent or hinder his majesty, &c. by his or their Letters Patent under the great seal of *Great-Britain*, from *erecting, constituting,* and

“ and *appointing* such courts of criminal,
 “ civil, and ECCLESIASTICAL *juris-*
 “ *diction*, within and for the said pro-
 “ vince of *Quebec*, and appointing from
 “ time to time the judges and officers
 “ thereof, as his majesty, his heirs, and
 “ successors, SHALL THINK NECES-
 “ SARY AND PROPER for the circum-
 “ stances of the said province.”

The right of the *Romish* clergy to
 tythes, and consequently to all their ac-
 customed dues, has been already shewn
 to be founded in law upon very great
 authority. They are by this act *de-*
prived of that right over the lands,
 persons, and properties, of protestants;
 which is certainly putting the *Romish*
 clergy in a worse situation than they
 were before, and takes away all possible
 pretence to any establishment of that
 church and religion. But the operation
 of this part of the clause may, and
 probably will, be attended with conse-
 quences still more fatal to the authority
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of the *Romish* clergy, as it holds out to *their* people an exemption from it in the moment they declare themselves *protestants*. And as his majesty is enabled to appropriate the tythes and other dues, which protestants were obliged to pay to the *Romish* clergy before the passing of this act, “for the encouragement of the
 “ PROTESTANT RELIGION, as well
 “ as for the maintenance and support of
 “ a protestant clergy;” should it be judged the best means of encouraging protestantism in *Quebec* to exempt its professors from the payment of all tythes and ecclesiastical dues whatever, and a suitable provision be made out of the public revenue of the province for the support of the protestant clergy, as is done in other colonies where the church of *England* is established by provincial laws; the *Roman* catholics will have not only an exemption from the authority of their priests, but also a considerable pecuniary advantage to induce them to reform : And pecuniary
 motives,

motives, it is well known, have, in all ages and in all places, had their influence in making converts.

Upon the first establishment of an *English* colony, before a local legislature can be formed, the inhabitants are held to be subject to such laws of *England*, as were of force antecedent to the establishment of any *British* colony in *America*, as far as they are applicable to their circumstances, and to all such subsequent acts of parliament, in which the colonies are named. Our statutes, antecedent to the reign of *Elizabeth*, are not very voluminous, and the provisions made by them, respecting commercial matters, are very inapplicable to the present state of trade in *England*, and still less adapted to that of a new colony in *America*. Until therefore a local legislature takes place, the inhabitants in most civil cases are without laws; and the magistrates generally adopt the usages of the neighbouring colonies, whose

circumstances and situation bear a near resemblance to their own ; and, by the tacit consent of the people to their fitness, they acquire the authority of laws : And things are conducted upon this (though somewhat arbitrary) footing, until a legislature is formed ; And then the laws of the other colonies are taken for models ; and, with such alterations as circumstances render necessary, they are enacted the laws of the new colony.

I never remember to have heard this proceeding blamed, or an assembly in a new colony censured, for adopting any approved law of an old one ; nor do I recollect that our assemblies in the *West India* islands have been exclaimed against for taking part of their laws, for regulating their slaves, from the *Code Noir* of the *French*, or converting into acts of assembly any of the *French* edicts or arrêts : and yet what a deal of mischief is pretended to be apprehended

hended from our doing the like in
Quebec?

All allow that this new colony required a constitution different in many respects from all our other colonies, and for which none of them could furnish a pattern. The *French Code Noir* (which it seems might have been used without offence) would not serve; for the inhabitants are not *black*.

From whence then could a model for the laws by which they were hereafter to be governed be so fitly taken, as from the laws by which they had been governed, except in cases where they had learned from experience to prefer the laws of *England* to their own? To this model, therefore, the late act has recourse, and establishes those laws and customs, which have heretofore been in use in *Canada* in all civil cases, as the laws of the new colony *for the present, and until the legislature now appointed shall*
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make other provision. The following are the words of the act: "That, in all
 " matters of controversy relative to pro-
 " perty and civil rights, resort shall be
 " had to the laws of *Canada*, as *the rule*
 " for the decision of the same: And
 " all causes, that shall hereafter be in-
 " stituted in any of the courts of justice,
 " to be appointed within and for the
 " said province by his Majesty, his heirs
 " and successors, shall, with respect to
 " such property and rights, be deter-
 " mined agreeably to the said laws and
 " customs of *Canada*, UNTIL THEY
 " SHALL BE VARIED OR ALTERED BY
 " ANY ORDINANCES THAT SHALL
 " FROM TIME TO TIME BE PASSED
 " IN THE SAID PROVINCE." This is
 the clause, which, it is said, *deprives* the
British subjects of their birth-right of
 trial by juries; and indeed, it must be
 confessed, it gives no directions about
 juries; for it leaves those and all other
 civil matters to the wisdom and direction
 of the provincial legislature, as hath ever
 been

been done in the case of new colonies, There is no act of parliament existing, except the late act for regulating the government of *Massachusetts Bay*, which directs the trial of civil causes to be by juries in *America*. And, in every new colony, until an act of the provincial legislature has been passed for the summoning of jurors, which indeed is always done in their first session, there is no law to guide a returning officer in his pannel, nor can any juror, who refuses to give his attendance, be legally fined. What security then, may I ask, have the merchants trading to *East-Florida*, that their causes will be determined by a jury, beyond what the *Quebec* merchants have, that theirs shall be so determined? In the case of the former, we know there is no legislature competent to impose fines, or inflict penalties, on any persons who being summoned should refuse to serve as jurors, even if the judges should direct a jury to be impannelled; and, consequently, there
may

may be just ground to apprehend, that no jury will be had. In the other case, a competent legislature is appointed, and it is left to them to pass an act that shall direct in what cases Juries are to be impannelled; and they have power to inflict sufficient penalties to compel juries to attend and do their duty.

The repealing clause of the act does not begin to operate before the first of *May*, 1775; and it is highly probable, that the governor, chief justice, and other public officers, together with the legislative council, will be all in *Quebec* some time before, and have taken upon them the exercise of their several functions, agreeable to the authority and directions of the act. The establishments of courts of justice, and the modes of proceeding therein, must necessarily engage their immediate attention; and in the acts, which they shall think proper to pass for this purpose, they will, no doubt, make provision for trials by juries in all such cases, as upon a full consideration

• ration of all local circumstances (many of which cannot be known here) shall appear fit to be so determined.

There is good reason to believe, that the *Canadians* do not desire to have their civil causes decided by juries : and if the *British* inhabitants wish for that mode of trial, why should it be supposed that the legislature will not give it to them in their causes, and only with-hold it from the others ? Surely those, who exclaim against the *Dependency* of the *Quebec* legislature, will not suspect them of shewing less respect to the orders of government, or of being less partial to *English* modes and customs, than the assemblies of *Rhode-Island*, *Connecticut*, or *Massachusetts Bay* ; and yet the choice of the mode of trial was committed to them, in criminal as well as in civil cases, by their respective charters.

But, although the mode of trial be left to the discretion of the provincial
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legislature in *Quebec*, care has been taken, by the last clause of this act, that all the laws, which have heretofore been made by parliament for the extension of commerce and the security of the *British* merchants trading to the colonies, shall have full force and effect in that province; and consequently the act of the 5th of *GEORGE* the second, for the more easy recovery of debts in the plantations, is by this clause extended to *Quebec*, and adds much to the security of the merchants trading there; not only as it gives the same force and effect to affidavits taken before the chief magistrate of any corporation in *Great Britain*, as to *vivâ voce* evidence in the courts of civil judicature there; but as it subjects the lands in *Quebec*, notwithstanding the entail of their tenure, to be extended and sold for the satisfaction of all debts due from the proprietors.

The *Habeas Corpus* is another privilege of *Englishmen*, which the subjects
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in *Quebec* are said to be deprived of by this act.

If by the *Habeas Corpus* is meant the act of the 31st of CHARLES the second, which directs and enjoins the issue of that writ, I will take upon me to assert, that there is no security in this respect given to the inhabitants of any colony in *America* by that act; for it is merely local, and confined to *England*: Nor is there any other act of parliament, under which the subjects in the old colonies claim the benefit of that writ; and, therefore, the subjects in *Canada* are upon the same footing in this respect with all the others. His Majesty indeed, by his instructions to his Governors of every colony, enjoins them to take care, that the subjects in their several provinces have their *Habeas Corpus*; and those instructions are directed to be made public, and registered among the records of the court: And, unless the provincial legislatures have passed acts, adopting the act

of CHARLES the second (which is the case in some colonies, though not in all) those instructions are the only security, which the inhabitants have, for enjoying the benefit of this justly esteemed writ. The declamation against government in this case is, therefore, somewhat premature ; for, until Governor *Carleton* has received his new instructions, it cannot be certainly known, that the subjects in *Quebec* are not to have their *Habeas Corpus*.

It would be great presumption in me to pretend to say, what will or ought to be done in the case ; but it may not be amiss to call to the recollection of the old whigs, who are so strong advocates for securing the grant of this writ to the *Canadians*, that there have been times when very good friends of public liberty have thought it necessary to suspend the act of CHARLES the second in *England*. And the protestants of *Ireland* are so jealous of the advantage, which the
Roman

Roman catholics in that kingdom might take of it, that, to this day, they voluntarily deprive themselves of its security, lest the general use of it might be productive of greater mischiefs to them, than any they apprehend from the power which government has over their persons through the want of it. But so whimsically inconsistent are the *railers* at the measures of administration (for they are not of importance sufficient to be entitled to the name of *opponents*) that, whilst they raise a cry against the indulgence shewn to the *Canadians* in religious matters, they affect to be exceedingly angry with the ministers, for confining their civil liberties within too narrow bounds; although indulgence, in the one case, can be attended with no dangerous consequences to the state, and, in the other, every thing would be put to the hazard.

No censure has been passed upon the clause continuing the administration of the criminal law of *England* in *Quebec*,
subject

subject nevertheless to such alterations and amendments, as the local legislature shall think fit to make ; nor have the objections, which have been made to the mode, by which the legislature is appointed, been considered, even by the propounders of them, as of equal weight with the arguments which have been adduced against every other mode, by which a legislative body has been proposed to be established.

The objections to an elective assembly, in the present circumstances of the colony, are insuperable ; for the members must either be chosen by the land owners, in which case the new subjects would elect the whole body, or the land owners must be set aside, and then the very essence of a representative assembly would be entirely taken away.

A local legislature is certainly necessary to give life and vigour to any constitution of government, that could have been framed for this colony ; for none

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flating and refuting every cavil, which ignorance, party or malevolence may be supposed to suggest against the measure I have been defending: They will probably be produced in *answers* or *observations* upon what is here laid before the public; and if it should happen, that they have more influence upon the public opinion than they have had upon the minds of the members of either house of parliament, they shall not pass without a reply.

In the mean time I flatter myself, that the information the public will now be in possession of upon this subject will wholly remove any disadvantageous impressions, which the misrepresentations so industriously circulated may have made, and restore and preserve to those servants of the crown, who have so arduously laboured to deserve it, that universal applause and approbation, by which their many eminent services to the state have been so honourably attended and distinguished.

APPENDIX.

A P P E N D I X.

Translation of a Petition from the Inhabitants of QUEBEC to the KING.

To the KING's Most Excellent Majesty,

The Petition of your Majesty's most dutiful and loving Subjects, the Lords of Fiefs, landed Proprietors, Citizens, Merchants and Traders, Inhabitants of the District of QUEBEC, in the Province of QUEBEC, in NORTH AMERICA.

YOUR Majesty's said new subjects most humbly pray, and take the liberty to throw themselves at the foot of your Majesty's throne, to present those sentiments of love, respect, fidelity and submission, with which their hearts are filled for their august Sovereign, and to render their humble thanks for the paternal care, which it has pleased your most excellent Majesty to have for them. Their gratitude compels them to acknowledge, that the remembrance of the melancholy spectacle of being conquered by the victorious arms of your

most excellent Majesty, although nearly ruined, did not long excite their regret, did not long cause their tears to flow.

Far from experiencing, at the moment of the entire conquest, the dreadful effects of restraint and captivity, the virtuous general who conquered them made them feel the mildness of the *British* government: he left them, by the 27th article of the general capitulation, the free exercise of their religion, in which they have not been molested, and, by the 37th, the full and entire possession and enjoyment of all their estates, whether noble, or held in villainage, as well as the continuation of their laws respecting property, by virtue of which they have been judged until the æra of the civil government. The mildness and forbearance of the conqueror have so firmly attached them to your most excellent Majesty, that their bonds are now become indissoluble, and that they will be every day more strongly united.

Your petitioners take the liberty most humbly and respectfully to represent to your most sacred Majesty, that from the time when it pleased your Majesty to command, that the military government should cease in the province, which had preserved to them their laws and customs, to establish a civil government; they began to perceive that inconveniences would result from the interruption of their antient laws, and the introduction of the
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customs

customs of *Britain*, with which they were totally unacquainted. Your petitioners well know, that the laws of *England* are infinitely wise and salutary for the mother country, and the old colonies ; but they have experienced from that moment, by the confusion which hath arisen in this province, and which now reigns for want of permanent and established laws, that such as are very wise and fit for the mother country, could not coincide with their manner of possession, with their laws of property, and with their antient customs, without entirely overturning their fortunes, and totally annihilating their possessions. Although they have been considerable sufferers by these grievances, which have nevertheless been moderated by the mildness of your most excellent Majesty's governors, they have waited patiently and have relied upon the reiterated promises, which they have thought proper to make to them, that a remedy should be applied.

Your Majesty indeed hath been pleased, during this time, to grant them the privilege of sitting upon juries, not only in all civil, but also in all criminal cases ; but at the same time they were given to understand, that there were obstacles to their being in any employs whether civil or military. They were and are startled at the idea of such an exclusion. Your petitioners, who ardently wish to serve, and to be useful to their country, flatter themselves that your Majesty will be pleased to permit them
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to participate with your antient subjects in the rights and privileges of *English* citizens. The irreproachable conduct which they have observed since the conquest, and their submission to government, should be looked upon as faithful testimonies, that they will never abuse your Majesty's goodness : they shall ever retain the most respectful remembrance of them. They will transmit them from age to age to their latest posterity. They have taken the most solemn oaths of allegiance to your Majesty and the illustrious house of *Hanover*, and have, in observance of the same, since the conquest, ever behaved themselves as faithful and loyal subjects. Their zeal and attachment will make them ever expose their lives for the glory of their sacred Sovereign, for the safety, defence, and augmentation of the *British* empire.

They intreat your Most Excellent Majesty to dissipate their fears, and to redress their grievances ; to grant them their ancient laws and usages, and that justice may be administered by your Majesty's new subjects as to civil matters ; to restore to *Canada* the same limits which it had before, and to include the coasts of *Labradore* in the province of *Quebec*, and those parts of the upper country which have been taken from it ; since it cannot maintain itself without its usual commerce. May your Majesty deign to extend your goodness equally to all your subjects without distinction, and to maintain that glorious title of Father and Sovereign of a free people,

people. Would it not be an infringement upon that title, if more than 100,000 new subjects should find themselves excluded from serving your Majesty, and deprived of those inestimable blessings possessed by your antient subjects ? If their petition be heard, their fears will be dissipated, their misfortunes have an end, their days will pass in serenity and ease. They will be ever ready to sacrifice them for the glory of their Sovereign, and the security of his empire, their new country.

The increase of so vast a country, the number of the inhabitants of which greatly exceeds 100,000 new subjects, the advancement of its agriculture, the encouragement of its navigation and commerce, an arrangement to establish it upon a foundation of stability, firm and immoveable, which may root out that confusion which now prevails to its great detriment, are objects worthy the attention of your Most Excellent Majesty, the arrangement of which your petitioners humbly submit.

May heaven, propitious to the vows and prayers of your petitioners, bless your Majesty with the enjoyment of a reign as glorious as durable ; may it preserve the illustrious family of *Hanover*, to whom they have sworn the most solemn oaths of allegiance, and cause it to reign to the end of time over us and our posterity.

To the KING's Most Excellent Majesty.

The Humble Petition of your Majesty's
most dutiful and loyal Subjects, the
British Freeholders, Merchants, and
Traders, in the Province of QUE-
BEC, in behalf of themselves and
others,

SHEWETH,

THAT induced by your Majesty's paternal
care for the security of the liberties and
properties of your subjects, and encouraged by
your Royal Proclamation of the 7th of *October*,
in the third year of your reign, "That you had
" been graciously pleased to give direction to your
" governors of your Majesty's new governments;
" that so soon as the state and circumstances thereof
" would admit, they should, with the advice of
" the members of your Majesty's Council, call
" General Assemblies within the said governments
" respectively, in such manner as is used in those
" provinces in *America* under your Majesty's im-
" mediate government."

Your petitioners most humbly implore your Ma-
jesty's gracious attention to their supplications, con-
fiding

siding (as they do) in your royal goodness, that only to point out in general the present state and circumstances of this province, is to obtain the royal mandate for calling a General Assembly within the same, which operating with your Majesty's gracious intention for the good and welfare of your people, will strengthen the hands of government, give encouragement and protection to agriculture and commerce, encrease the public revenues, and we trust, will in time, under your Majesty's royal influence, be the happy means of uniting your new subjects in a due conformity and attachment to the *British* laws and constitution, and rendering the conquest of this extensive and populous country truly glorious.

That, as the great source of the wealth and riches of a country principally consists in the numbers of its inhabitants usefully employed, your petitioners cannot but lament that the great numbers of your Majesty's new subjects in this province, for want of such public encouragement as an assembly only can properly give to improve its natural advantages, have hitherto proved rather a burthen than any benefit to themselves, or advantage to the community; their extreme poverty and misery increasing with their numbers.

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That

That your Majesty's *British* subjects residing in this province, have set examples and given every encouragement in their power to promote industry, are the principal importers of *British* manufactures, carry on three fourths of the trade of this country, annually return a considerable revenue into your Majesty's Exchequer in *Great-Britain*: And tho' the great advantages this country is naturally capable of are many and obvious for promoting the trade and manufactures of the mother country ; yet for some time past, both its landed and commercial interest have been declining, and if a General Assembly is not soon ordered by your Majesty, to make and enforce due obedience to laws for encouraging agriculture, regulating the trade, discouraging such importations from the other colonies, as impoverish the province, your petitioners have the greatest reason to apprehend their own ruin as well as that of the province in general.

That there is now a sufficient number of your Majesty's Protestant subjects residing in and possessed of real property in this province, and who are otherwise qualified to be members of a General Assembly.

Your petitioners therefore most humbly supplicate your Majesty, that you will be graciously pleased to give direction to your Governor of

this province to call a General Assembly within the same, to meet at the city of *Quebec*, in such manner as is used in those provinces in America under your Majesty's immediate government.

*An Act for making more effectual Provision
for the Government of the Province of
Quebec in North-America.*

WHEREAS his Majesty, by his Royal Proclamation, bearing Date the Seventh Day of *October*, in the Third Year of his Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories, and Islands in *America*, ceded to his Majesty by the definitive Treaty of Peace, concluded at *Paris* on the Tenth Day of *February*, One thousand seven hundred and sixty-three : And whereas, by the Arrangements made by the said Royal Proclamation, a very large Extent of Country, within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein ; and certain Parts of the Territory of *Canada*, where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the Nature of such Fisheries :

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May it therefore please Your Most Excellent Majesty that it may be ENACTED; AND BE IT ENACTED by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Territories, Islands, and Countries in *North America*, belonging to the Crown of *Great Britain*, bounded on the South by a Line from the Bay of *Chaleurs*, along the high Lands which divide the Rivers that empty themselves into the River *Saint Lawrence* from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*, keeping the same Latitude directly West, through the Lake *Champlain*, till, in the same Latitude, it meets the River *Saint Lawrence*; from thence up the Eastern Bank of the said River to the Lake *Ontario*; thence through the Lake *Ontario*, and the River commonly called *Niagara*; and thence along by the Eastern and South-eastern Bank of Lake *Erie*, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pennsylvania*, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the *Ohio*: But in case the said Bank of the said Lake shall not be found to be so intersected, then
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following the said Bank until it shall arrive at that Point of the said Bank which shall be nearest to the North-western Angle of the said Province of *Pensylvania*, and thence, by a right Line, to the said North-western Angle of the said Province; and thence along the Western Boundary of the said Province, until it strike the River *Ohio*; and along the Bank of the said River, Westward, to the Banks of the *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of *England*, trading to *Hudson's Bay*; and also all such Territories, Islands, and Countries, which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are hereby, during his Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three.

PROVIDED ALWAYS, That nothing herein contained, relative to the Boundary of the Province of *Quebec*, shall in any wise affect the Boundaries of any other Colony.

PROVIDED ALWAYS, AND BE IT ENACTED, That nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any Right, Title, or Possession, derived

derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining ; but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.

AND WHEREAS the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec*, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to above Sixty-five thousand Persons professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution and System of Laws, by which their Persons and Property had been protected, governed and ordered, for a long Series of Years, from the First Establishment of the said Province of *Canada* ;
BE IT THEREFORE FURTHER ENACTED by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor
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and Courcil of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled and made void, from and after the First Day of *May*, One thousand seven hundred and seventy-five.

AND, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, IT IS HEREBY DECLARED, That his Majesty's Subjects, professing the Religion of the Church of *Rome* of and in the said Province of *Quebec*, may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should belong, to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

PROVIDED NEVERTHELESS, That it shall be lawful for his Majesty, his Heirs or Successors, to make such Provision out of the rest of the said accustomed Dues and Rights, for the Encouragement of the Protestant Religion, and for the Main-

Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

PROVIDED ALWAYS, AND BE IT ENACTED, That no Person, professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof; but that every such Person, who, by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following Oath before the Governor, or such other Person in such Court of Record as his Majesty shall appoint, who are hereby authorised to administer the same; *videlicet*,

I A. B. do sincerely promise and swear, That I will be faithful, and bear true Allegiance to His Majesty King George, and him will defend to the utmost of my Power, against all traiterous Conspiracies, and Attempts whatsoever, which shall be made against his Person, Crown, and Dignity; and I will do my utmost Endeavour to disclose and make known to His Majesty, His Heirs and Successors, all Treasons, and traiterous Conspiracies, and Attempts, which I shall know to be against Him, or any of Them; and all this I do swear without any Equivocation, mental

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Evasion,

Evasion, or secret Reservation, and renouncing all Pardons and Dispensations from any Power or Person whomsoever to the contrary.

So help me G O D.

And every such Person, who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and been liable to for neglecting or refusing to take the Oath required by the said Statute, passed in the First Year of the Reign of Queen *Elizabeth*.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That all His Majesty's *Canadian* Subjects, within the Province of *Quebec*, the religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all other their Civil Rights, in as large, ample, and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as may consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of *Great Britain*; and that in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada*, as the Rule for the Decision of the same; and all Causes that shall hereafter be instituted in
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any of the Courts of Justice, to be appointed within and for the said Province, by His Majesty, His Heirs and Successors, shall, with respect to such Property and Rights, be determined agreeably to the said Laws and Customs of *Canada*, until they shall be varied or altered by any Ordinances that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, by and with the Advice and Consent of the Legislative Council of the same, to be appointed in Manner herein-after mentioned.

PROVIDED ALWAYS, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs and Successors, to be holden in free and common Soccage.

PROVIDED ALSO, That it shall and may be lawful to and for every Person that is Owner of any Lands, Goods, or Credits, in the said Province, and that has a Right to alienate the said Lands, Goods, or Credits, in his or her Life-time, by Deed of Sale, Gift, or otherwise, to devise or bequeath the same at his or her Death, by his or her last Will and Testament; any Law, Usage, or Custom, heretofore or now prevailing in the Province, to the contrary hereof in any-wise notwithstanding;

standing ; such Will being executed, either according to the Laws of *Canada*, or according to the Forms prescribed by the Laws of *England*.

AND WHEREAS the Certainty and Lenity of the Criminal Law of *England*, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered ; BE IT THEREFORE FURTHER ENACTED by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of *Quebec*, as well in the Description and Quality of the Offence, as in the Method of Prosecution and Trial ; and the Punishments and Forfeiture thereby inflicted to the Exclusion of every other Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four ; any Thing in this Act to the Contrary thereof in any Respect notwithstanding ; subject nevertheless to such Alterations and Amendments as the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, by and with the Advice and Consent of the legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time,

Time, cause to be made therein, in Manner herein-after directed.

AND WHEREAS it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain Time, and under proper Restrictions, to Persons resident there: AND WHEREAS it is at present inexpedient to call an Assembly; BE IT THEREFORE ENACTED by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or their Signet or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint; and, upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; which Council, so appointed and nominated, or the major Part thereof, shall have Power and Authority to make Ordinances for the Peace, Welfare, and good Government, of the said Province,

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with the Consent of His Majesty's Governor, or, in his Absence, of the Lieutenant-governor, or Commander in Chief for the Time being.

PROVIDED ALWAYS, That nothing in this Act contained shall extend to authorise or empower the said legislative Council to lay any Taxes or Duties within the said Province, such Rates and Taxes only excepted as the Inhabitants of any Town or District within the said Province may be authorised by the said Council to assess, levy, and apply, within the said Town or District, for the Purpose of making Roads, erecting and repairing public Buildings, or for any other Purpose respecting the local Convenience and Economy of such Town or District.

PROVIDED ALSO, AND BE IT ENACTED by the Authority aforesaid, That every Ordinance so to be made, shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, and laid before His Majesty for His Royal Approbation; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at *Quebec*.

PROVIDED ALSO, That no Ordinance touching Religion, or by which any Punishment may be inflicted

licted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's Approbation.

PROVIDED ALSO, That no Ordinance shall be passed at any Meeting of the Council where less than a Majority of the whole Council is present, or at any Time except between the First Day of *January* and the First Day of *May*, unless upon some urgent Occasion, in which Case every Member thereof resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, to attend the same.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or Their Letters Patent under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts of Criminal, Civil, and Ecclesiastical Jurisdiction within and for the said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the Circumstances of the said Province.

PROVIDED ALWAYS, AND IT IS HEREBY ENACTED, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating, the Trade or Commerce of his Majesty's Colonies and Plantations in *America*; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared to be, in Force, within the said Province of *Quebec*, and every Part thereof.

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